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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. **2012-64**

**CYNTHIA LEA DUNBAR**  
**aka CYNTHIA ROTH**  
716 Paseo Del Mar  
Palos Verdes Estates, CA 90274

**ACCUSATION**

Registered Nurse License No. 312676

Respondent.

Complainant alleges:

**PARTIES**

1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs (Board).

2. On or about March 31, 1980, the Board issued Registered Nurse License No. 312676 to Cynthia Lea Dunbar aka Cynthia Roth (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on April 30, 2010, as inactive for failure to complete continuing education.

**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

## STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

"This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division."

7. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

8. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

1       "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
2 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice  
3 Act] or regulations adopted pursuant to it.

4       ....

5       "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
6 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
7 conclusive evidence thereof. . . ."

8       9. Section 2762 states, in pertinent part:

9       "In addition to other acts constituting unprofessional conduct within the meaning of this  
10 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
11 chapter to do any of the following:

12       "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
13 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
14 administer to another, any controlled substance as defined in Division 10 (commencing with  
15 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
16 defined in Section 4022.

17       "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
18 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
19 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
20 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
21 ability to conduct with safety to the public the practice authorized by his or her license.

22       "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
23 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
24 or the possession of, or falsification of a record pertaining to, the substances described in  
25 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
26 thereof.

27       ....

28       ///

1       "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
2 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this  
3 section."

4       10. Section 2764 provides that the expiration of a license shall not deprive the Board of  
5 jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision  
6 imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an  
7 expired license at any time within eight (8) years after the expiration.

8       11. Section 2770.11 states:

9       "(a) Each registered nurse who requests participation in a diversion program shall agree to  
10 cooperate with the rehabilitation program designed by the committee and approved by the  
11 program manager. Any failure to comply with the provisions of rehabilitation program may  
12 result in termination of the registered nurse's participation in a program. The name and license  
13 number of a registered nurse who is terminated for any reason, other than successful completion,  
14 shall be reported to the board's enforcement program.

15       "(b) If the program manager determines that a registered nurse, who is denied admission  
16 into the program or terminated from the program, presents a threat to the public or his or her own  
17 health and safety, the program manager shall report the name and license number, along with a  
18 copy of all diversion records for that registered nurse, to the board's enforcement program. The  
19 board may use any of the records it receives under this subdivision in any disciplinary  
20 proceeding."

### 21                                   REGULATORY PROVISIONS

22       12. California Code of Regulations, title 16, section 1444 states, in pertinent part:

23       "A conviction or act shall be considered to be substantially related to the qualifications,  
24 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
25 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
26 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

27       .....

28       "(c) Theft, dishonesty, fraud, or deceit. . . ."

1 **COST RECOVERY**

2 13. Section 125.3 provides that the Board may request the administrative law judge to  
3 direct a licensee found to have committed a violation or violations of the licensing act to pay a  
4 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

6 14. Dilaudid, an opium derivative, is a Schedule II controlled substance as defined in  
7 Health and Safety Code section 11055(b)(1)(k) and is categorized as a dangerous drug pursuant to  
8 section 4022.

9 15. Fioricet is a brand name for the combination of butalbital, acetaminophen and  
10 caffeine and is designated a dangerous drug pursuant to section 4022.

11 16. Morphine, alkaloid of opium, is classified as a Schedule II controlled substance as  
12 designated by Health and Safety Code section 11055(b)(1)(M) and categorized as a dangerous  
13 drug pursuant to section 4022.

14 17. Norco and Vicodin, trade names for combination drugs containing hydrocodone  
15 bitartrate (opioid analgesic) and acetaminophen, are Schedule III controlled substance as defined  
16 in Health and Safety Code section 11056(e)(4) and are categorized as dangerous drugs pursuant  
17 to section 4022.

18 18. Tramadol is a dangerous drug pursuant to section 4022.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Failure to Comply with Diversion Program)**

21 19. Respondent is subject to disciplinary action under section 2761, subdivision (d), and  
22 section 2770.11, in that on or about September 29, 2010, Respondent was terminated from the  
23 Board's Registered Nursing Diversion Program (Diversion Program) for failure to comply with  
24 provisions of the rehabilitation plan and she was determined to be a public safety risk. The  
25 circumstances are as follows:

26 a. On or about June 17, 2008, Respondent voluntarily enrolled in the Diversion Program  
27 after admitting to diverting Dilaudid from her place of employment and using it. Respondent was  
28 mandated to sign up for drug and alcohol testing.

- 1        b. Reluctantly, in or about November 2008, Respondent signed up for drug and alcohol  
2 testing.
- 3        c. On or about November 24, 2008, Respondent tested positive for Tramadol.
- 4        d. On or about December 4, 2008, Respondent tested positive for Morphine.
- 5        e. On or about December 4, 2008, Respondent was mandated to enter a 30-day inpatient  
6 residential treatment program by January 1, 2009.
- 7        f. On or about March 16, 2009, Respondent admitted that she failed to submit to testing  
8 for the past three (3) months, and failed to report that she was taking pain medications prescribed  
9 after leg surgery for an injury that occurred during an unapproved ski vacation in December.  
10 Respondent refused to attend inpatient treatment for 30 days, and agreed to be terminated from  
11 the Diversion Program as a Public Risk. Respondent's file was closed.
- 12        g. Subsequently, on or about March 16, 2009, Respondent contacted diversion  
13 enforcement, agreed to complete the 30-day inpatient treatment and follow the Diversion Program  
14 mandates exactly. Respondent's 30-day inpatient treatment enrollment was extended to  
15 April 1, 2009.
- 16        h. On or about April 29, 2009, Respondent completed a 30-day inpatient treatment  
17 program.
- 18        i. On or about February 9, 2010, admitted to a Board investigator that she was on  
19 Fioricet, failed to include on her Diversion Program monthly reports that she was taking Fioricet  
20 as prescribed by a physician, and tested positive for Butalbital, barbiturates (Fioricet). Further,  
21 Respondent's 12-Step Meeting attendance form documented her as being "Happy."
- 22        j. On or about September 13, 2010, Respondent tested positive for alcohol.
- 23        k. On or about September 29, 2010, Respondent was terminated from the Diversion  
24 Program.

25                    **SECOND CAUSE FOR DISCIPLINE**

26                    **(Conviction of Substantially Related Crime)**

27        20. Respondent is subject to disciplinary action under sections 490 and 2761,  
28 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that

on or about July 30, 2010, Respondent was convicted of a substantially related crime, as follows:

a. On or about July 30, 2010, after pleading guilty, Respondent was convicted of two counts, Counts 1 and 4, in the criminal proceeding entitled *The People of the State of California v. Cynthia Dunbar* (Super. Ct. Los Angeles County, 2010, No. YA078016).

i. On felony Count 1 for violating Health and Safety Code section 11350(a) [possession of a controlled substance, to wit, dilaudid], the Court placed Respondent on the deferred entry of judgment program for 18 months.

ii. On misdemeanor Count 4 for violating Health and Safety Code section 11173(a) [forging and issuing a prescription for a narcotic drug, to wit, hydrocodone], the Court sentenced Respondent to 30 days in jail and 150 days of in home detention, placed her on three (3) years probation, and ordered her to complete 150 hours of community service.

d. The circumstances underlying the conviction occurred in or about 2007 and 2008, while and after Respondent was employed as a field registry nurse at Little Company of Mary Hospital (LCMH), San Pedro and Torrance, California, locations. Respondent admittedly stole blank prescriptions, prescribed controlled substances, Norco and Vicodin, to herself, forged the names of emergency room physicians and obtained the controlled substances from the Pill Box Pharmacy, Redondo Beach, California, for her own personal use. Respondent prescribed to herself prescriptions as follows:

Rx Number	Hospital	Emergency Physician	Date	Controlled Substance	Count	Refills	Total
00604	San Pedro	Shaw	02/02/08	Norco 10/325	60	4	240
00205	San Pedro	Diaz	02/22/08	Norco 10/325	60	4	240
00664	San Pedro	McFarland	03/27/08	Norco 10/325	60	4	240
01098	San Pedro	McFarland	04/12/08	Norco 10/325	80	4	320
01099	San Pedro	McFarland	05/14/08	Norco 10/325	60	4	240
none	Torrance	Shoji	10/09/08	Norco 10/325	65	3	195
							1475
00458	San Pedro	Lizaso	04/21/08	Vicodin ES	60	4	240
00663	San Pedro	McFarland	04/28/08	Vicodin ES	60	4	240
							480

1 e. On or about June 5, 2008, Respondent admitted to diverting narcotics, Diluadid, from  
2 LCMH, Torrance, pharmacy stores and at her lunch break taking a Dilaudid syringe home.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Drug Related Conviction)**

5 21. Respondent is subject to disciplinary action under sections 2761, subdivision (a),  
6 and 2762, subdivision (c), in that on or about July 30, 2010, Respondent was convicted of a crime  
7 involving controlled substances and dangerous drugs. Complainant refers to and by this reference  
8 incorporates the allegations set forth above in paragraph 19, subparagraphs a - e, inclusive, as  
9 though set forth fully.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(False Records)**

12 22. Respondent is subject to disciplinary action under sections 2761, subdivision (a),  
13 and 2762, subdivision (e), on the grounds of unprofessional conduct, in that on or between  
14 August 6, 2007 and September 5, 2007, while Respondent was employed as a registered nurse at  
15 Centinela Freeman Regional Medical Center/Marina Del Rey Hospital (Centinela), Marina Del  
16 Rey, California, Respondent made false, or grossly incorrect, grossly inconsistent, or  
17 unintelligible entries in hospital and patient records pertaining to Dilaudid. On or about  
18 September 5, 2007, after Respondent's admitting that she diverted Dilaudid, Centinela audited  
19 Respondent's Pyxis<sup>1</sup> report Dilaudid withdrawals/removals with corresponding hospital and  
20 patient records for one month prior and found that Respondent failed to account for 21mgs of  
21 Dilaudid. The circumstances are as follows:

22 a. Patient TC. On or about August 10, 2007, Respondent removed higher doses of  
23 Dilaudid at 1050 and 1330 hours, despite having access to smaller doses. No discrepancy found.

24 b. Patient TS. On or about September 4, 2007, Respondent removed a total of 12mgs of  
25 Dilaudid and documented administration of 6mgs Dilaudid. Respondent failed to document any

26 <sup>1</sup> Pyxis is a trade name for the automated single-unit dose medication dispensing system  
27 that records information such as patient name, physician orders, date and time medication was  
28 withdrawn, and the name of the licensed individual who withdrew and administered the  
medication.



1. wastage. Respondent failed to account for 6mgs Dilaudid in any hospital records.

2. c. Patient AH. On or about August 31, 2007, Respondent removed Dilaudid 4mg at  
3. 1400 hours without a physician's order. The patient was not seen by a physician until 1433  
4. hours. Respondent documented waste of 3mg Dilaudid. Respondent failed to document  
5. administration of 1mg Dilaudid on the patient's Medication Administration Record (MAR).  
6. Respondent failed to account for 1mg Dilaudid in any hospital records.

7. d. Patient AT. On or about September 2, 2007, Respondent removed a total of 28mgs  
8. Dilaudid, but only administered the patient with 16mgs. No order was found for Dilaudid after  
9. 1440 hours, yet Respondent administered the patient with Dilaudid 2mg at 1635 and 1810 hours.  
10. No record of wastage was found. Respondent removed higher doses of Dilaudid (4mg vials)  
11. when smaller 4mg vials were available. Respondent failed to account for 12mgs Dilaudid in any  
12. hospital records.

13. e. Patient MR. On or about September 4, 2007, Respondent removed 2mg Dilaudid for  
14. the patient, despite no physician order for Dilaudid for the patient. Respondent failed to  
15. document wastage or administration of the 2mg Dilaudid. Respondent failed to account for 2mg  
16. Dilaudid in any hospital records.

#### 17. FIFTH CAUSE FOR DISCIPLINE

##### 18. (Unlawfully Obtaining and Possessing Controlled Substances and Dangerous Drugs)

19. 23. Respondent is subject to disciplinary action under sections 2761, subdivision (a),  
20. and 2762, subdivision (a), on the grounds of unprofessional conduct, in that Respondent obtained  
21. controlled substances and dangerous drugs without valid prescriptions. Complainant refers to and  
22. by this reference incorporates the allegations set forth above in paragraphs 19 - 21, inclusive, as  
23. though set forth fully.

#### 24. SIXTH CAUSE FOR DISCIPLINE

##### 25. (Dangerous Use)

26. 24. Respondent is subject to disciplinary action under sections 2761, subdivision (a),  
27. and 2762, subdivision (b), on the grounds of unprofessional conduct, in that Respondent obtained  
28. and used controlled substances and dangerous drugs without valid prescriptions. Complainant

1. refers to and by this reference incorporates the allegations set forth above in paragraphs 19 - 22,  
2. inclusive, as though set forth fully.

3. **SEVENTH CAUSE FOR DISCIPLINE**

4. **(Unprofessional Conduct / Violate Act)**

5. 25. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and /  
6. or (d), in that Respondent committed acts of unprofessional conduct and / or acts violating the  
7. Nursing Practice Act. Complainant refers to and by this reference incorporates the allegations set  
8. forth above in paragraphs 19 - 23, inclusive, as though set forth fully.

9. **PRAYER**

10. WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11. and that following the hearing, the Board of Registered Nursing issue a decision:

12. 1. Revoking or suspending Registered Nurse License No. 312676, issued to Cynthia Lea  
13. Dunbar aka Cynthia Roth;
14. 2. Ordering Cynthia Lea Dunbar to pay the Board the reasonable costs of the  
15. investigation and enforcement of this case, pursuant to section 125.3; and
16. 3. Taking such other and further action as deemed necessary and proper.

17.  
18.  
19. DATED: July 28, 2011

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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